

REMARKS

The Examiner has subjected this application to restriction under 35 U.S.C. 121. The Examiner has formed two groups of claims, the first for claims 1-28 drawn to an abrasion-resistant skirt material and the second for claims 29-41 drawn to a method for forming an abrasion-resistant sheet material. The Examiner has asserted that these groups of claims represent distinct inventions and may properly be restricted. Applicants hereby confirm their provisional election of claim Group I directed to claims 1-28 for examination. However, the restriction requirement is traversed. It should be noted, that the Commissioner may statutorily require the election of inventions "If two or more independent and distinct inventions are claimed in one application." In the instant case the Examiner is alleging that the inventions of groups one and two are distinct, although absolutely no showing of such distinctness has been made.

The Examiner's attention is directed to 37 C.F.R. 1.141<sup>1</sup>(b) where allegedly different classes of inventions may be included and examined in a single application provided they are so linked as to form a single inventive concept. Please note that claims for a product are specifically authorized for examination together with claims for one process specially adapted for the use of that product. This is exactly the type of case for which the rule was promulgated, i.e., to avoid burdensome and unnecessary restrictions. It is also asserted that the requirement to restrict the present application would be an unnecessary burden upon the Applicants and the Examiner's failure to follow the mandates of the statute and regulation would be a denial of due process. For these reasons it is respectfully urged that the restriction requirement be rescinded.

In addition since the method claims contain all of the limitations of the article claims, the method claims should be rejoined under In Re Ochiai 37 USPQ2d 1127 and In re Brouwer 37 USPQ 1663.

The examiner has rejected claims 1-28 for obviousness type double patenting over the claims of co-pending application 10/359,796 for the reasons stated in the office action. It is submitted that this ground of rejection is not well taken. The present application claims

1. An abrasion-resistant skirt **material** *for use with* air cushion vehicles having at least one air chamber, said skirt material comprising:
  - (a) a fabric base, comprising yarns of an ultra-high molecular weight polyethylene;
  - (b) a bonding layer, comprising a thermoplastic material bonded to the fabric base; and
  - (c) an outer layer, comprising a rubber compound bonded to the bonding layer.

15. A lightweight, abrasion-resistant sheet material, comprising:
  - (a) a fabric base, comprising yarns of an ultra-high molecular weight polyethylene;
  - (b) a bonding layer, comprising a thermoplastic material bonded to the fabric base; and
  - (c) an outer layer, comprising a rubber compound bonded to the bonding layer.

In contrast co-pending s/n 10/359,796 claims

1. A lightweight and durable **skirt assembly** for an air cushion vehicle having a rigid support structure, the skirt comprising: (a) at least one air chamber; and (b) the air chamber is formed from a substantially air impermeable, laminated sheet material, the laminated sheet material comprising a fabric made substantially from yarns that are formed from polymers of ultra-high molecular weight polyethylene, the fabric being laminated with a thermoplastic film.

As one can see, the claims are of considerable different scope from one another. The present application claims a three-layered sheet material that is fabric base/ bonding layer/rubber compound containing layer. Co-pending s/n 10/359,796 is not claiming a sheet material per se but rather a skirt assembly having an air chamber. The present

application does not claim a structure having an air chamber. Co-pending s/n 10/359,796 is not claiming a three-layered sheet material that is fabric base/ bonding layer/rubber compound containing layer. Although it *uses* a fabric, the claims do not mention a fabric with a bonding layer nor an adjacent rubber compound containing layer. For these reasons one can see that the claims of the instant application are significantly different from, and would not be obvious over the claims of co-pending s/n 10/359,796. It is respectfully submitted that this ground of rejection should be withdrawn.

The examiner has rejected claims 1-28 under 35 U.S.C. 103 over Berczi (U.S. 3,661,692 in view of Holland, et al (U.S. 6,280,546). It is respectfully asserted that this ground of rejection is not well taken. The present invention has a structure of

Fabric base comprising yarns of an <b>ultra-high molecular weight polyethylene</b>
Bonding layer comprising a <b>thermoplastic</b> material
Outer layer, comprising a rubber compound

Berczi shows an apparently similar layering, however, they do not teach an ultra-high molecular weight polyethylene as required by the present claims. The closest Berczi embodiment employs polypropylene which forms low molecular weight yarns. These would not have the puncture resistance of ultra-high molecular weight polyethylene. Most importantly, the present claims require a bonding layer comprising a **thermoplastic** material. Berczi does not teach a thermoplastic layer adhesive adjacent to his woven fabric layer. Rather, all of the materials mentioned by Berczi are **thermosets**. In this regard, please see column 3, lines 1, et seq. where Berczi's adhesive resins are all thermosetting rather than thermoplastic. Even when combined with optional rubbers, the overall composition is still thermosetting. Such thermosetting resins would not be useful for the present invention because their high thermosetting temperatures are well above the

melting point of the ultra-high molecular weight polyethylene of the present claims. Heating at Berczi's temperatures would tend to destroy the integrity of Applicant's structure. Please note that the Berczi structure is formed by coating his fabric with his thermosetting adhesive, applying his uncured elastomer layer, and then vulcanizing the structure (see col. 2, lines 1-7) and (col. 3, lines 29-35). The Berczi layering components are therefore incompatible with those of this invention. The secondary reference to Holland, et al is inapplicable both to the present invention as well as the Berczi invention at least because Holland, et al do not pertain to structures having a rubber containing layer. In fact a word search of the Holland, et al reference fails to even locate the word rubber or elastomer. The examiner's attempt to combine the Holland, et al materials into the Berczi reference is an impermissible reconstruction of the art in light of the Applicant's disclosure.

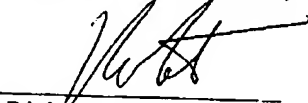
In summary, there can be no suggestion from Berczi or Holland, et al, that Applicant's thermoplastic bonding layer would be bondable to a rubber containing layer. Berczi adheres a thermosetting layer to an uncured rubber layer and then vulcanizes/sets with heat. Holland, et al does not mention a rubber containing layer at all.

It is urged that one skilled in the art would not be imbued with an inspiration to form the claimed structure and the materials within the claimed structural layers upon a reading of the Berczi and Holland, et al references. For these reasons it is submitted that the rejection of claims 1-28 under 35 U.S.C. 103 over Berczi in view of Holland, et al should be withdrawn.

The undersigned respectfully requests re-examination of this application and believes it is now in condition for allowance. Such action is requested. If the examiner believes there is any matter which prevents allowance of the present application, it is requested that the

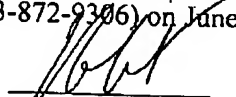
undersigned be contacted to arrange for an interview which may expedite prosecution.

Respectfully submitted,



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I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office (FAX No. 703-872-9306) on June 13, 2005.



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